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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,477	02/06/2001	Toshihiko Muramatsu	P/2054-131	8876
7590	12/24/2003		EXAMINER	
Steven I Weisburd Esq Dickstein Shapiro Morin & Oshinsky LLP 1177 Avenue of the Americas 41st Floor New York, NY 10036-2714			BEHULU, ALEMAYEHU	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/777,477	MURAMATSU, TOSHIHIKO
	Examiner Alemayehu Behulu	Art Unit 2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-10 and 12-21 is/are rejected.
- 7) Claim(s) 11 and 22 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5-6</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the word buttery 216 on page 16, line number 1, should be changed to battery 216.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergins (U.S. Patent No. 5,826,198).

Regarding claim 1, Bergins teaches a communication device, wherein data is transmitted and received via a communication section and a line, comprising: decision means for deciding whether or not to transmit and receive data based on predetermined information corresponding to the state of the line, and whether or to interrupt communications if the device is currently in a transmission/reception state (figure 3 column 2, lines 47-65 and column 6, lines 42-62), a controller for controlling communication section according decision results from decision means (figure 1, number 34 and 42 and figure 3, number 305).

Regarding claim 3, Bergins teaches the communication device defined in claim 1, further comprising notification for notifying a user of decision results according to the decision results of decision means (column 11, lines 62-column 12, lines 2).

Regarding claim 5, Bergins teaches the communication device defined in claim 1, wherein predetermined information contains information representing a reception level (figure 2, number 305).

Regarding claim 7, Bergins teaches the communication device defined in claim 1, wherein predetermined information contains information representing a response timing from a connected destination (figure 3, numbers 302 and 303).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) further in view of Martin (U.S. Patent No. 6,041,217).

Regarding claim 2, Bergins teaches the communication device defined in claim 1. However, Bergins fails to teach an information holder predetermined information, decision for deciding whether or not to transmit and receive data based on current predetermined information and old predetermined information held in holder, or whether or not to interrupt communications if the device is currently in a transmission/reception state. But, Martin teaches an information holder predetermined information (column 2, lines 12-23), decision for deciding whether or not to

transmit and receive data based on current predetermined information and old predetermined information held in holder, or whether or not to interrupt communications if the device is currently in a transmission/reception state (column 2, lines 12-30 and figures 1-3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) with Martin (U.S. Patent No. 6,041,217) in order to avoid network congestion.

4. Claims 4, 12, 14, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) further in view of Acosta (U.S. Patent No. 6,166,729).

Regarding claim 4, Bergins teaches the communication device defined in claim 1. However, Bergins fails to teach decision for disconnection of communications, controller controls communication to disconnect the line after the logging-out in accordance with predetermined communication procedure. But, Acosta teaches decision for disconnection of communications, controller controls communication to disconnect the line after the logging-out in accordance with predetermined communication procedure (column 30, lines 28-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) with Acosta (U.S. Patent No. 6,166,729) in order to ease network congestions.

Regarding claim 12, Bergins teaches a communication method suitable for a communication device which transmits and receives data via a communication section line, method comprising steps of: deciding whether or not to transmit data based on predetermined information

corresponding to the state of the line or the internal state of the system, and whether or to interrupt communications if the device is currently in a transmission/reception state (figure 3, column 2, lines 47-65). However, Bergins fails to teach controlling communication section to disconnect the line after the logging-out in a predetermined communication procedure, in accordance with decision results in decision step. But, Acosta teaches controlling communication section to disconnect the line after the logging-out in a predetermined communication procedure, in accordance with decision results in decision step (column 30, lines 28-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) with Acosta (U.S. Patent No. 6,166,729) in order to ease network congestions.

Regarding claim 14, the combination of Bergins and Acosta teach the communication method defined in claim 12, further comprising notification for notifying a user of decision results according to the decision results of decision step of deciding (column 11, lines 62-column 12, lines 2).

Regarding claim 15, the combination of Bergins and Acosta teach the communication method defined in claim 12, wherein step of controlling further comprising the step of controlling communication to disconnect the line after the logging-out in accordance with a predetermined communication procedure when the decision result of step of deciding is disconnection of communications (see Acosta column 30, lines 28-67).

Regarding claim 16, the combination of the combination of Bergins and Acosta teach the communication method defined in claim 12, wherein predetermined information contains information representing a reception level (see Bergins figure 2, number 305).

Regarding claim 18, the combination of Bergins and Acosta teach the communication method defined in claim 12, wherein predetermined information contains information representing a response timing from a connected destination (see Bergins figure 3, numbers 302 and 303).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) further in view of Besharat (U.S. Patent No. 6,219,540)

Regarding claim 6, Bergins teaches the communication device defined in claim 1. However, Bergins fails to teach wherein predetermined information contains information representing an error rate. But, Besharat teaches predetermined information contains information representing an error rate (column 2, lines 63-column 3, lines 17 and column 4, lines 58-column 5, lines 16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) with Besharat (U.S. Patent No. 6,219,540) in order to indicate the system quality or the like.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) further in view of Pleso (U.S. Patent No. 5,835,366).

Regarding claim 8, Bergins teaches the communication device defined in claim 1. However, Bergins fails to teach wherein predetermined information contains information representing an output voltage level of a power source within the device . However, Pleso teaches predetermined information contains information representing an output voltage level of a power source within the device (figure 3). Therefore, it would have been obvious to a person of ordinary skill in the

art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) with Pleso (U.S. Patent No. 5,835,366) in order to avoid loss of valuable information .

Regarding claim 9, the combination of Bergins and Pleso teach the communication device defined in claim 8, wherein power source within the device comprises a secondary battery (see Pleso figure 2, number 70).

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) and Pleso (U.S. Patent No. 5,835,366) further in view of Clark (U.S. Patent No. 5,408,520).

Regarding claim 10, the combination of Bergins and Pleso teach the communication device defined in claim 9. However, Bergins and Pleso fail to teach prediction for predicting a transmittable/receivable data amount based on a charging amount or output voltage level of secondary battery, predetermined containing prediction results acquired by prediction means. But, Clark teaches prediction for predicting a transmittable/receivable data amount based on a charging amount or output voltage level of secondary battery, predetermined information containing prediction results acquired by prediction means (figure 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) and Pleso (U.S. Patent No. 5,835,366) with Clark (U.S. Patent No. 5,408,520) in order to avoid losing of valuable information before the battery is out.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) further in view of Martin (U.S. Patent No. 6,041,217).

Regarding claim 13, the combination of Bergins and Acosta teach the communication defined in claim 12. However, Bergins and Acosta fail to teach further comprising the steps of: holding predetermined information, deciding whether or not to transmit and receive data based on current predetermined information and old predetermined information held in holder, or whether or not to interrupt communications if the device is currently in a transmission/reception state. But, Martin teaches holding predetermined information (column 2, lines 12-23), deciding whether or not to transmit and receive data based on current predetermined information and old predetermined information held in holder, or whether or not to interrupt communications if the device is currently in a transmission/reception state (column 2, lines 12-30 and figures 1-3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) with Martin (U.S. Patent No. 6,041,217) in order to adequately monitor and control to make the right decision at the right time.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) further in view of Besharat (U.S. Patent No. 6,219,540).

Regarding claim 17, the combination of Bergins and Acosta teach the communication method defined in claim 12. However, Bergins and Acosta fail to teach wherein predetermined

information contains information representing an error rate. But, Besharat teaches predetermined information contains information representing an error rate (column 2, lines 63-column 3, lines 17 and column 4, lines 58-column 5, lines 16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) with Besharat (U.S. Patent No. 6,219,540) in order to in order to avoid losing of valuable information before the battery is out.

10. Claim 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) further in view of Pleso (U.S. Patent No. 5,835,366).

Regarding claim 19, the combination of the combination of Bergins and Acosta teach the communication method defined in claim 12. However, Bergins and Acosta fail to teach wherein predetermined information contains information representing an output voltage level of a power source within a device. But, Pleso teaches wherein predetermined information contains information representing an output voltage level of a power source within a device (figure 3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198) and Acosta (U.S. Patent No. 6,166,729) with Pleso (U.S. Patent No. 5,835,366) in order to avoid loss of valuable information. Regarding claim 20, the combination of the combination of Bergins, Acosta, and Pleso teach the communication method defined in claim 19, wherein power source within the device comprises a secondary battery (see Pleso figure 2, number 70).

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergins (U.S. Patent No. 5,826,198), Acosta (U.S. Patent No. 6,166,729), and Pleso (U.S. Patent No. 5,835,366) further in view of Clark (U.S. Patent No. 5,408,520).

Regarding claim 21, the combination of the combination of Bergins, Acosta, and Pleso teach the communication device defined in claim 9. However, the combination of the combination of Bergins, Acosta, and Pleso fail to teach prediction for predicting a transmittable/receivable data amount based on a charging amount or output voltage level of secondary battery, predetermined containing prediction results acquired by prediction means. But, Clark teaches prediction for predicting a transmittable/receivable data amount based on a charging amount or output voltage level of secondary battery, predetermined containing prediction results acquired by prediction means (figure 5 and column 4, lines 41-63). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bergins (U.S. Patent No. 5,826,198), Acosta (U.S. Patent No. 6,166,729) and Pleso (U.S. Patent No. 5,835,366) with Clark (U.S. Patent No. 5,408,520) in order to avoid losing of valuable information before the battery is out.

Allowable Subject Matter

12. Claims 11 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding to claims 11 and 22, the applied references fail to disclose, or render obvious the claimed limitations that the second prediction for predicting a data amount to be transmitted or received in current communications, predetermined information containing prediction results acquired by second prediction means, as specified in the claim.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eggleston et al. (U.S. Patent No. 5,764,899) Method and Apparatus for Communicating an Optimized Rely

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alemayehu Behulu whose telephone number is 703-305-4828. The examiner can normally be reached on 8 AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-746-3501.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

AB


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12/18/03